



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Zyskind, et al.

Appl. No. : 09/492,709

Filed : January 27, 2000

For : GENES IDENTIFIED AS  
REQUIRED FOR  
PROLIFERATION IN  
ESCHERICHIA COLI

) Group Art Unit 1631

)

) I hereby certify that this correspondence and all  
) marked attachments are being deposited with  
) the United States Postal Service as first-class  
) mail in an envelope addressed to: Assistant  
) Commissioner for Patents, Washington, D.C.  
) 20231, on

) July 26, 2001

) (Date)

) Daniel Hart, Reg. No. 40,637

Examiner : A. Marschel

RESPONSE TO RESTRICTION REQUIREMENTAssistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In response to the Restriction Requirement mailed June 26, 2001 and the Interview Summary Record of July 18, 2001 in the above-identified application, Applicant hereby elects Group IX for examination. Within Group IX, Applicant elects the species in which no specific sequence is elected for examination. Accordingly, Claims 35-45, 68-77, 79-83, 85-93 and 96-101 are pending for examination. Claims 1-34, 46-67, 78, 84, 94, 95, and 102-110 are hereby withdrawn as directed to a non-elected invention. However, Applicants reserve full rights to pursue the subject matter of the withdrawn claims in related applications.

The Examiner further divided Group IX into the following species:

Species A: Inhibiting polypeptide gene product activity

Species B: Reducing polypeptide gene product amount

Species C: Inhibiting nucleic acid activity

Species D: Reducing amount of encoding nucleic acid

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From species A-D, Applicant elects Species A with traverse. Applicant traverses the division of the claims into Species A-D because Species A encompasses Species B-D. Namely, the activity of a polypeptide will be inhibited (Species A) if one reduces the amount of a polypeptide gene product, inhibits the activity of a nucleic acid encoding the gene product or reduces the amount of nucleic acid encoding the gene product (Species B-D). Accordingly, because Species A encompasses Species B-D, examination of all species will not be more burdensome on the Examiner than examination of Species A.

In addition, Applicant notes that if the Examiner initially examines the elected claims only with respect to Species A, upon allowability of the elected claims Applicant is entitled to seek consideration of the remaining species as provided in 37 C.F.R. §1.141.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: January 27, 2000

By: Daniel Hart

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